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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-546

11 **GERALDINE ARCE GREER**
12 **1286 University Avenue, #512**
13 **San Diego, CA 92103**

DEFAULT DECISION AND ORDER

Registered Nurse License No. 690391

[Gov. Code, §11520]

Respondent.

14 **FINDINGS OF FACT**

15 1. On or about March 13, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her
16 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
17 of Consumer Affairs, filed Accusation No. 2012-546 against Geraldine Arce Greer (Respondent)
18 before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

19 2. On or about October 12, 2006, the Board of Registered Nursing (Board) issued
20 Registered Nurse License No. 690391 to Respondent. The Registered Nurse License was in full
21 force and effect at all times relevant to the charges brought in Accusation No. 2012-546 and will
22 expire on May 31, 2012, unless renewed.

23 3. On or about March 13, 2012, Respondent was served by Certified and First Class
24 Mail copies of the Accusation No. 2012-546, Statement to Respondent, Notice of Defense,
25 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
26 and 11507.7) at Respondent's address of record which, pursuant to California Code of
27 Regulations, title 16, section 1409.1, and Business and Professions Code section 136, is required
28 to be reported and maintained with the Board. Respondent's address of record was and is:

1 1286 University Avenue, #512
2 San Diego, CA 92103

3 4. Service of the Accusation was effective as a matter of law under the provisions of
4 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
5 124.

6 5. On or about April 2, 2012, the aforementioned documents served by certified mail
7 were returned by the U.S. Postal Service marked "Attempted Not Known." The address on the
8 documents was the same as the address on file with the Board. Respondent failed to maintain an
9 updated address with the Board and the Board has made attempts to serve the Respondent at the
10 address on file. Respondent has not made herself available for service and therefore, has not
11 availed herself of her right to file a notice of defense and appear at hearing.

12 6. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the respondent
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts
15 of the accusation not expressly admitted. Failure to file a notice of defense shall
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
17 may nevertheless grant a hearing.

18 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
19 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
20 546.

21 8. California Government Code section 11520 states, in pertinent part:

22 (a) If the respondent either fails to file a notice of defense or to appear at the
23 hearing, the agency may take action based upon the respondent's express admissions
24 or upon other evidence and affidavits may be used as evidence without any notice to
25 respondent.

26 9. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 2012-546, finds

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1 that the charges and allegations in Accusation No. 2012-546, are separately and severally, found
2 to be true and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$642.50 as of April 11, 2012.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Geraldine Arce Greer has
8 subjected her Registered Nurse License No. 690391 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
11 Nurse License based upon the following violations alleged in the Accusation which are supported
12 by the Default Decision Investigatory Evidence Packet in this case:

13 a. Respondent has subjected her registered nurse license to disciplinary action
14 under sections 490 and 2761, subdivision (f) of the Code in that on or about July 18, 2008, in a
15 criminal proceeding entitled *People of the State of California v. Geraldine Arce Greer*, in San
16 Diego County Superior Court, case number M049640, Respondent was convicted on her plea of
17 guilty of violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol
18 concentration (BAC) of 0.08% or more, a crime that is substantially related to the qualifications,
19 functions, and duties of a registered nurse.

20 b. Respondent has subjected her registered nurse license to disciplinary action
21 under sections 490 and 2761, subdivision (f) of the Code in that on or about June 13, 2011, in a
22 criminal proceeding entitled *People of the State of California v. Geraldine Arce Greer*, in Ventura
23 County Superior Court, case number 2011002078, Respondent was convicted on her plea of
24 guilty of violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol
25 concentration (BAC) of 0.08% or more, a crime that is substantially related to the qualifications,
26 functions, and duties of a registered nurse.

27 c. Respondent has subjected her registered nurse license to disciplinary action
28 under section 2762, subdivision (b) of the Code for unprofessional conduct in that on or about

1 April 26, 2008, and January 18, 2011, Respondent used alcoholic beverages to an extent or in a
2 manner that was potentially dangerous and injurious to herself, and to others in that she operated
3 a motor vehicle with significantly high blood alcohol concentrations.

4 d. Respondent has subjected her registered nurse license to disciplinary action
5 under section 2762, subdivision (c) of the Code for unprofessional conduct in that on or about
6 July 18, 2008, and June 13, 2011, Respondent was convicted of criminal offenses involving the
7 consumption and/or self-administration of alcohol.

8 e. Respondent has subjected her registered nurse license to disciplinary action
9 under section 2761, subdivision (a)(4) of the Code in that Respondent's Arizona registered nurse
10 license was disciplined by the Arizona State Board of Nursing.

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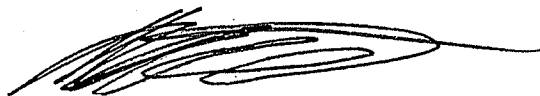
ORDER

IT IS SO ORDERED that Registered Nurse License No. 690391, heretofore issued to Respondent Geraldine Arce Greer, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on July 27, 2012.

It is so ORDERED June 29, 2012



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

DOJ Matter ID: SD2012702939
Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2012-546**

13 **GERALDINE ARCE GREER**
1286 University Avenue #512
14 San Diego, CA 92103

A C C U S A T I O N

15 **Registered Nurse License No. 690391**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about October 12, 2006, the Board of Registered Nursing issued Registered
24 Nurse License Number 690391 to Geraldine Arce Greer (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on May 31, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board

1 may inquire into the circumstances surrounding the commission of the crime in order
2 to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Section 2761 of the Code states:

6 The board may take disciplinary action against a certified or licensed nurse or
7 deny an application for a certificate or license for any of the following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the
9 following:

10

11 (4) Denial of licensure, revocation, suspension, restriction, or any other
12 disciplinary action against a health care professional license or certificate by another
state or territory of the United States, by any other government agency, or by another
California health care professional licensing board. A certified copy of the decision
or judgment shall be conclusive evidence of that action.

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14 (f) Conviction of a felony or of any offense substantially related to the
15 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

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17 10. Section 2762 of the Code states:

18 In addition to other acts constituting unprofessional conduct within the meaning
19 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
licensed under this chapter to do any of the following:

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21 (b) Use any controlled substance as defined in Division 10 (commencing with
22 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
23 dangerous or injurious to himself or herself, any other person, or the public or to the
extent that such use impairs his or her ability to conduct with safety to the public the
24 practice authorized by his or her license.

25 (c) Be convicted of a criminal offense involving the prescription, consumption,
26 or self-administration of any of the substances described in subdivisions (a) and (b) of
this section, or the possession of, or falsification of a record pertaining to, the
27 substances described in subdivision (a) of this section, in which event the record of
the conviction is conclusive evidence thereof.

28

11. Section 2765 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

13. California Code of Regulations, title 16, section 1445 states:

....

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

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1 (5) If applicable, evidence of expungement proceedings pursuant to Section
2 1203.4 of the Penal Code.

3 (6) Evidence, if any, of rehabilitation submitted by the licensee.

4 **COST RECOVERY**

5 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licensee found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(July 18, 2008 Criminal Conviction for DUI on April 26, 2008)**

11 15. Respondent has subjected her registered nurse license to disciplinary action under
12 sections 490 and 2761, subdivision (f) of the Code in that Respondent was convicted of a crime
13 that is substantially related to the qualifications, functions, and duties of a registered nurse. The
14 circumstances are as follows:

15 a. On or about July 18, 2008, in a criminal proceeding entitled *People of the State*
16 *of California v. Geraldine Arce Greer*, in San Diego County Superior Court, case number
17 M049640, Respondent was convicted on her plea of guilty of violating Vehicle Code section
18 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08% or more, a
19 misdemeanor. The court dismissed an additional count of violating Vehicle Code section 23152,
20 subdivision (a), driving under the influence of alcohol, pursuant to the plea agreement.

21 b. As a result of the conviction, on or about July 18, 2008, Respondent was
22 granted five years summary probation, and ordered to perform five days of public service, with
23 credit for two days, attend and complete a First Conviction Program and a MADD victim impact
24 panel session, pay fees, fines, and restitution in the amount of \$1,912, and comply with the terms
25 of standard DUI probation.

26 c. The facts that led to the conviction are that on or about the evening of April 26,
27 2008, patrol officers with the San Diego Police Department were dispatched to a report of a
28 vehicle collision in San Diego involving Respondent. Upon arrival, the officers learned from the

1 victim driver that he suspected Respondent was under the influence of alcohol. The officer
2 detected the odor of an alcoholic beverage emitting from Respondent, and her eyes were red and
3 watery. Respondent submitted to a series of field sobriety tests which she was unable to perform
4 as explained and demonstrated by the officer. Respondent provided three breath samples which
5 were analyzed by the preliminary alcohol screening device with a BAC of .196, .170, and .164,
6 respectively. Respondent was arrested for driving under the influence of alcohol. During
7 booking, she provided two more breath samples which were analyzed by the Intoxilyzer with a
8 BAC of .18 percent.

9 SECOND CAUSE FOR DISCIPLINE

10 (June 13, 2011 Criminal Conviction for DUI on January 18, 2011)

11 16. Respondent has subjected her registered nurse license to disciplinary action under
12 sections 490 and 2761, subdivision (f) of the Code in that Respondent was convicted of a crime
13 that is substantially related to the qualifications, functions, and duties of a registered nurse. The
14 circumstances are as follows:

15 a. On or about June 13, 2011, in a criminal proceeding entitled *People of the State*
16 *of California v. Geraldine Arce Greer*, in Ventura County Superior Court, case number
17 2011002078, Respondent was convicted on her plea of guilty of violating Vehicle Code section
18 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08% or more, a
19 misdemeanor. The court found true the special allegation that Respondent drove with a BAC of
20 .15 percent or higher, pursuant to Vehicle Code section 23578. Pursuant to a plea agreement, the
21 court dismissed an additional count of violating Vehicle Code section 23152, subdivision (a),
22 driving under the influence of alcohol, as well as the special allegations that Respondent was
23 previously convicted of a DUI (Veh. Code, § 23578).

24 b. As a result of the conviction, on or about June 13, 2011, Respondent was
25 granted 60 months formal probation, ordered to serve 50 days in the Ventura County Jail, with
26 credit for one day, and required to attend and complete a Multiple Conviction Program.
27 (Respondent was permitted to complete her jail sentence and alcohol program in Nashville, TN.)
28 Respondent was further ordered to install an ignition interlock device on her vehicle, completely

1 abstain from the use of alcohol, pay a fine in the amount of \$2,119, plus fees and restitution, and
2 comply with the terms of enhanced DUI probation.

3 c. The facts that led to the conviction are that on or about the afternoon of January
4 18, 2011, a patrol officer with the Ventura County Sheriff's Department conducted a traffic stop
5 of Respondent after she was observed speeding and weaving between lanes on U.S. Highway
6 101. Upon contact with Respondent, the deputy determined she was under the influence of
7 alcohol. Respondent's demeanor was noted as "stupor" in the arrest report.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

10 17. Respondent has subjected her registered nurse license to disciplinary action under
11 section 2762, subdivision (b) of the Code for unprofessional conduct in that on or about April 26,
12 2008, and January 18, 2011, as described in paragraphs 15 and 16, above, Respondent used
13 alcoholic beverages to an extent or in a manner that was potentially dangerous and injurious to
14 herself, and to others in that she operated a motor vehicle with significantly high blood alcohol
15 concentrations. On April 26, 2008, Respondent collided with another vehicle while under the
16 influence of alcohol.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct - Conviction of Alcohol-Related Criminal Offenses)**

19 18. Respondent has subjected her registered nurse license to disciplinary action under
20 section 2762, subdivision (c) of the Code for unprofessional conduct in that on or about July 18,
21 2008, and June 13, 2011, as described in paragraphs 15 and 16, above, Respondent was convicted
22 of criminal offenses involving the consumption and/or self-administration of alcohol.

23 **FIFTH CAUSE FOR DISCIPLINE**

24 **(Discipline by an Out-of-State Nursing Agency)**

25 19. Respondent has subjected her registered nurse license to disciplinary action under
26 section 2761, subdivision (a)(4) of the Code in that Respondent's Arizona registered nurse license
27 was disciplined by the Arizona State Board of Nursing. The circumstances are as follows:

28 ///

20. On or about February 16, 2010, Respondent entered into a Consent Agreement with the Arizona State Board of Nursing (Arizona Board) based on Respondent's April 26, 2008 arrest, and her July 18, 2008 criminal conviction for driving under the influence of alcohol, more fully described in paragraph 15, above. Respondent failed to notify the Arizona Board of the arrest within ten (10) days, as required by Arizona statute.

21. In the Consent Agreement, Respondent admitted to the Arizona Board's Findings of Fact and Conclusions of Law which contained the following violations:

a. Arizona Revised Statutes § 32-308(a): A health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after receiving or renewing a license or certificate must notify the health professional's regulatory board in writing within ten working days after the charge is filed.

b. Arizona Revised Statutes § 32-308(d): A health professional who does not comply with the notification requirements of this section commits an act of unprofessional conduct. The health professional's regulatory board may impose a civil penalty of not more than one thousand dollars in addition to other disciplinary action it takes.

c. Arizona Administrative Code section R4-19-403: Unprofessional Conduct

For purposes of A.R.S. § 32-1601(18)(d), any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public includes one or more of the following:

17. A pattern of using or being under the influence of alcohol, drugs, or a similar substance to the extent that judgment may be impaired and nursing practice detrimentally affected, or while on duty in any health care facility, school, institution, or other work location;

28. If a licensee or applicant is charged with a felony or a misdemeanor involving conduct that may affect patient safety, failing to notify the Board in writing, as required under A.R.S. § 32-3208, within 10 days of being charged. The licensee or applicant shall include the following in the notification:

a. Name, address, telephone number, social security number, and license number, if applicable;

b. Date of the charge; and

c. Nature of the offense;

22. In lieu of a formal hearing on the above violations, Respondent agreed to the issuance of an Order. Respondent irrevocably waived all rights to a hearing, rehearing, appeal, or judicial review of the Arizona Board's Findings of Fact and Conclusions of Law.

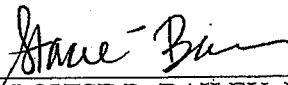
23. As a result of the Consent Agreement, Respondent was assessed a civil penalty in the amount of \$250.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 690391, issued to Geraldine Arce Greer;
2. Ordering Geraldine Arce Greer to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: March 13, 2012

for 
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2012702939